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APPLICATION	NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,762	09/778,762 02/08/2001		Marcio Marc Abreu	P66081US1	4160
136	7590	03/24/2005	EXAMINER		INER
		LMAN PLLC	NAJARIA	NAJARIAN, LENA	
400 SEVENTH STREET N.W. SUITE 600				ART UNIT	PAPER NUMBER
WASHINGTON, DC 20004				3626	
				DATE MAILED: 03/24/200:	5

Please find below and/or attached an Office communication concerning this application or proceeding.

i	Application No.	Applicant(s)					
	09/778,762	ABREU, MARCIO MARC					
Constitution Symmetry	Examiner	Art Unit					
`	Lena Najarian	3626					
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply							
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).							
Status							
1) Responsive to communication(s) filed on <u>08 February 2001</u> .							
2a) This action is <b>FINAL</b> . 2b) Thi	s action is non-final.						
* * * * * * * * * * * * * * * * * * * *	☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims							
4)  Claim(s) 1-79 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5)  Claim(s) is/are allowed.  6)  Claim(s) is/are rejected.  7)  Claim(s) is/are objected to.  8)  Claim(s) 1-79 are subject to restriction and/or election requirement.							
Application Papers							
9) The specification is objected to by the Examiner.							
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.							
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the E							
Priority under 35 U.S.C. § 119							
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some color None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.							
Attachment(s)							
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	4)						
Notice of Draftsperson's Patent Drawing Review (PTO-948)     Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08     Paper No(s)/Mail Date	_	Patent Application (PTO-152)					

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## **DETAILED ACTION**

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## Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - Claims 1-8 and 47-61, drawn to a demand-based messaging system between computers, classified in class 709, subclass 206.
  - II. Claims 9-16, 25-33, and 65, drawn to a healthcare management system, classified in class 705, subclass 2.
  - III. Claims 17-20, drawn to comparison of biometric information, classified in class 713, subclass 186.
  - IV. Claims 21-24 and 34-41, drawn to searching a database via search engine, classified in class 707, subclass 3.
  - V. Claims 42-46, drawn to interconnection of plural POS machines to host computer, classified in class 705, subclass 21.
  - VI. Claims 62-64 and 74-76, drawn to initiating connection messaging via cellular telephone communications, classified in class 455, subclass 466.
  - VII. Claims 66-73 and 77-79, drawn to card-based identification systems, classified in class 235, subclass 380.
- 2. The inventions are distinct, each from the other because of the following reasons:

  Inventions I, II, III, IV, V, VI, and VII are related as subcombinations disclosed as
  usable together in a single combination. The subcombinations are distinct from each

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other if they are shown to be separately usable. In the instant case, invention I has separate utility such as a demand based messaging system, invention II has separate utility such as a health care management system, invention III has separate utility such as biometric acquisition, invention IV has separate utility such as query processing, invention V has separate utility such as interconnection or interaction of cash registers to host computer, invention VI has separate utility such as short message service, and invention VII has separate utility such as credit or identification card system. See MPEP § 806.05(d).

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3. Claim 41 link(s) inventions II and IV. The restriction requirement between the linked inventions is subject to the nonallowance of the linking claim(s), claim 41. Claim 48 link(s) inventions I and II. The restriction requirement between the linked inventions is subject to the nonallowance of the linking claim(s), claim 48. Upon the allowance of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application. Applicant(s) are advised that if any such claim(s) depending from or including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the

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provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

- 4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and/or because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
- 5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
- 6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

## Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lena Najarian whose telephone number is (703) 305-0260. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (703) 305-9588. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ln

3-11-05

ALEXANDER KALINOWSKU PRIMARY EXAMINER